



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 25, 2014

Kevin Lakey
Water District 37 Watermaster
PO Box P
Shoshone, ID 83352

RE: Updated guidance regarding "Saved Water" rights on Big Wood River involving Baseline Bypass and Extension Bypass Canals

Dear Kevin:

You recently forwarded an e-mail to several of us at the Department that asked questions regarding delivery of the saved water rights on the Baseline Bypass and Extension Bypass that resulted from the Chapman and Coffin Decrees. The Department has provided prior correspondence and guidance concerning the delivery of these saved water rights, including a letter to Water District 37 watermaster Lee Peterson dated August 6, 2002, and a Department memo to Lee Peterson dated August 20, 1992.

I understand that you are specifically seeking guidance on when and how the Coffin saved water rights are cut or curtailed. Prior correspondence from the Department did not clearly address this question. Your e-mail to Department staff on July 17, 2014 states as follows:

If I follow the August 6, 2002 letter and the original findings and decree, 37-891 would be on and off almost at the same time. (i.e.) Coffin (37-891) is on when the 6/15/1883 is off, but goes off when rights senior to 6/15/1883 are not fully deliverable. The August 6, 2002 letter goes into some detail as to pro-rata curtailment between senior rights and 37-892, but does not specifically include 37-891 in the pro-rata curtailment.

As you stated, the Department's August 6, 2002 letter does provide some detail regarding the pro-rata curtailment of the Chapman Decree rights (37-892 and other rights as listed in attachment to this letter). This guidance was included in the Snake River Basin Adjudication (SRBA) partial decrees for the Chapman saved water rights. The Chapman saved water rights are delivered continuously from time of initiation (when all of flow of the Big Wood River is turned into the Baseline bypass Canal at the Glendale Bridge) until all of the priority rights through the Baseline Bypass and Extension Bypass are futile or not called for during the irrigation season, subject to the pro rata guidance previously provided by the Department and included in the SRBA partial decrees for the Chapman rights.

The SRBA partial decrees for the Coffin Decreed rights (37-891A and 37-891B) includes conditions that clearly indicate when delivery of these rights are initiated, which is after the flow of the river is conveyed into the Baseline Bypass Canal heading **and** when water is turned into the

Baseline Extension Bypass canal from the Baseline Bypass Canal **and** when rights of 6/15/1883 priority are curtailed or turned off. The partial decrees for 37-891A and 37-891B further state that these rights are “curtailed when all priority rights deliverable through the Extension Bypass are futile or not called for during the irrigation season.” Although this condition may imply that the rights may be continuously delivered independently of all priority rights senior to a priority date of 6/15/1883, one must also consider the following and additional condition in the partial decrees:

Pursuant to a call in times of scarcity, this right is senior to all other rights that did not result from developed/saved water in the Big Wood River, as established by and subject to the provisions included within *In Re Tom Hughes, et. al., plaintiff vs. Mans H. Coffin, Watermaster, Defendant*, in the Fourth Judicial District of the State of Idaho in and for the County of Blaine dated 7/18/1941.

The “and subject to the provisions included within [the Coffin decree]” language in the above quoted condition is important in this circumstance. As stated in previous Department correspondence, a key provision in the Coffin Decree is that *“Nothing in these findings or in this decree is intended to impair or affect said priorities through Canal 61.”* Because of the condition in the SRBA partial decrees, the Coffin rights (37-891A and 37-891B) are still subject to this provision. Given that the SRBA partial decree priority rights at Canal 61 range from 7/1/1880 to 5/15/1883, the Coffin rights may only be delivered until the 5/15/1883 priority date rights at Canal 61 are cut or no longer deliverable. As you suggested in your e-mail, the window of time in which the Coffin rights may be delivered may very limited. While a narrow delivery window may seem impractical, the provision of the Coffin Decree prohibiting impairment of the Canal 61 senior priority rights is clear.

According to current SRBA partial decrees and several remaining recommended rights before the SRBA Court, the Canal 61 priority rights senior to priority date of 6/15/1883 total 33.1 cfs. The sum of all rights senior to priority date of 6/15/1883 delivered to the Bypass Canal and Extension Bypass Canal system is 57.44 cfs. When the flow of the Big Wood River is turned into the Bypass Canal, thereby initiating delivery of 18 cfs of the Chapman saved water, there is at least a total of 75.44 cfs that may be delivered to the Chapman right owners and the Bypass/Extension Bypass Canal system. Upon cutting the 6/15/1883 priority right at Canal 62, the Coffin Decree rights are on to the extent that there is more than 75.44 cfs deliverable in the Bypass/Extension Bypass system. The total amount of water deliverable to the Coffin rights is 16.5 cfs. As water supply drops for delivery to the Bypass/Extension Bypass and Chapman rights, the Coffin rights are reduced until the 5/15/1883 priority rights at Canal 61 are cut, at which point the Coffin rights are turned off. The attached graph or diagram aids in depicting the delivery of the senior priority rights and saved water rights associated with the Bypass/Extension Bypass system.

In summary, the Department directs you to continue the delivery of the Chapman Decree rights as previously instructed and in accordance with conditions in the partial decrees concerning proportioning delivery of the rights to the pro-rata share of senior priority rights in the Bypass/Extension Bypass system. The Coffin rights (37-891A and 37-891B) are deliverable when the 6/15/1883 priority right at the Canal 62 heading is turned off (and after the all of the flow of Big Wood River is turned in to the Bypass Canal and after water is turned in to the Extension Bypass Canal). The Coffin rights are turned off when the 5/15/1883 priority rights at Canal 61, as delivered through the Extension Bypass, are cut or not deliverable. Turning off the Coffin rights may help restore delivery of the 5/15/1883 priority rights at Canal 61.

Hopefully this letter provides sufficient direction for your delivery. This updated guidance should be followed until further direction is provided by the Department or upon further determination by an appropriate court of jurisdiction. Please contact this office if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Luke". The signature is fluid and cursive, with a large initial "T" and a stylized "L".

Tim Luke,
Water Compliance Bureau

Attachment

- C. Allen Merritt & Doug Jones– IDWR Southern Region
Garrick Baxter & Meghan Carter, Deputy Attorney Generals, IDWR

Attachment A
Chapman and Coffin Saved Water Rights
SRBA Partial Decrees

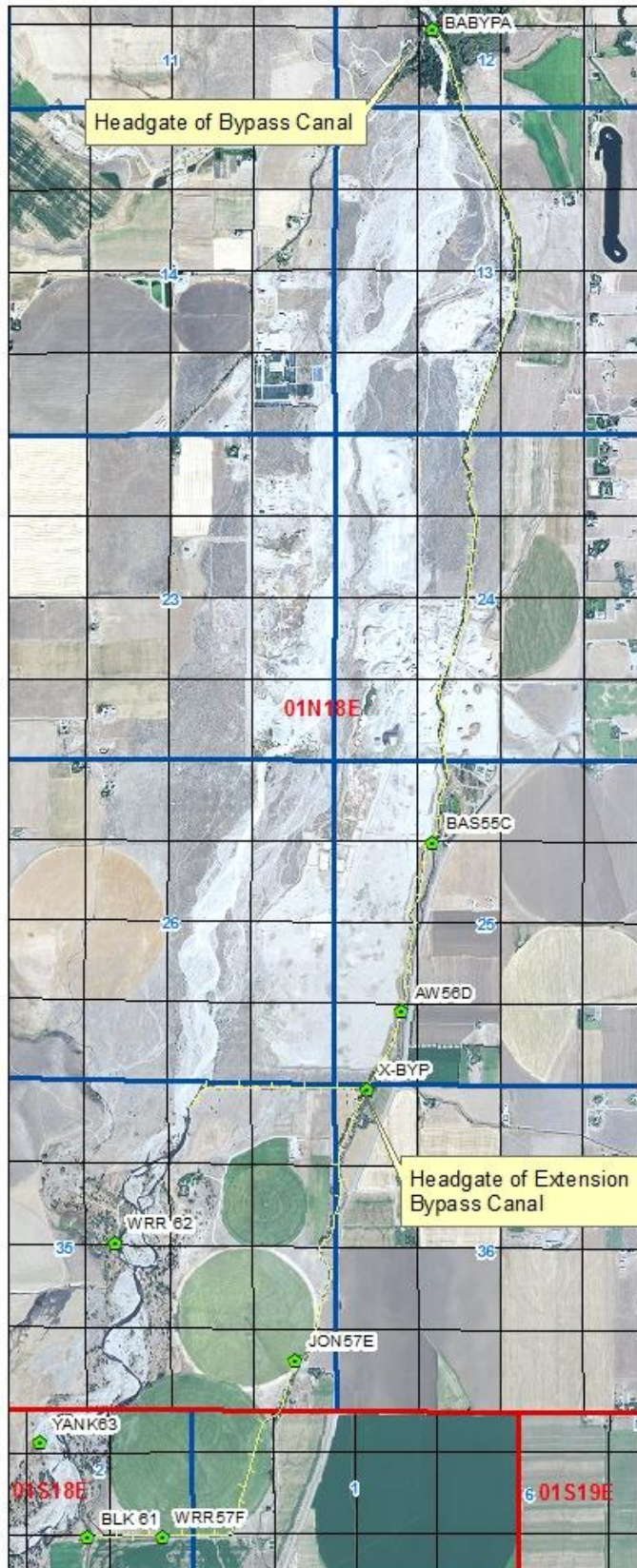
Chapman Decree Water Rights

WR #	Priority Date	Diversion Rate	Source List	Water Use List	Current Owner	Total Acres	Acre Limit
37-892	9/1/1920	11.232	BIG WOOD RIVER, EAST FORK WOOD RIVER, TRAIL CREEK, WARM SPRINGS CREEK	IRRIGATION	UPPER WOOD RIVER WATER USERS ASSN		7,366.0
37-893A	9/1/1920	1.690	BIG WOOD RIVER	IRRIGATION	SHERBINE, NANCY; SHERBINE, WILLIAM L	277.0	160.0
37-894B	9/1/1920	3.180	BIG WOOD RIVER	AESTHETIC STORAGE, DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, RECREATION STORAGE	BIG WOOD GOLF COURSE LLC	85.7	
37-11394	9/1/1920	1.280	BIG WOOD RIVER	IRRIGATION	SPRING OF GLADNESS RANCH INC	109.2	
37-22750	9/1/1920	0.410	BIG WOOD RIVER	IRRIGATION	HEART ROCK RANCH LLC	34.8	

Coffin Decree Water Rights

WR #	Priority Date	Diversion Rate	Source List	Water Use List	Current Owner	Total Acres	Acre Limit
37-891A	7/24/1924	10.500	BIG WOOD RIVER, EAST FORK WOOD RIVER, TRAIL CREEK, WARM SPRINGS CREEK	IRRIGATION	UPPER WOOD RIVER WATER USERS ASSN		7,366.0
37-891B	7/24/1924	6.000	BIG WOOD RIVER	IRRIGATION	BASELINE CANAL CO		

Attachment B Bypass/Extension Bypass Map and Delivery Scenarios



1) Early season: all priorities filled, water flows in Bypass and River. No "saved water" is delivered.

2) Mid season: Late (junior) priorities are cut, water flows in Bypass and River. No "saved water" is delivered. Water is returned to River at Bypass and perhaps at Extension Bypass returns as needed for deliveries.

3) Later Mid season: Middle priorities are cut, water flows in Bypass only (capacity="150 to 200 cfs") and none in River. Up to 18 cfs Chapman Decree "saved water" is deliverable as called for by Decree holders. Water is returned to River at Bypass and perhaps at Extension Bypass returns as needed for deliveries.

4) Rights with priority of 6/15/1883 are cut and water is normally only diverted down Extension Bypass to fill senior rights. Flows in Extension Bypass in excess of the senior rights are available to fill Coffin Decree.

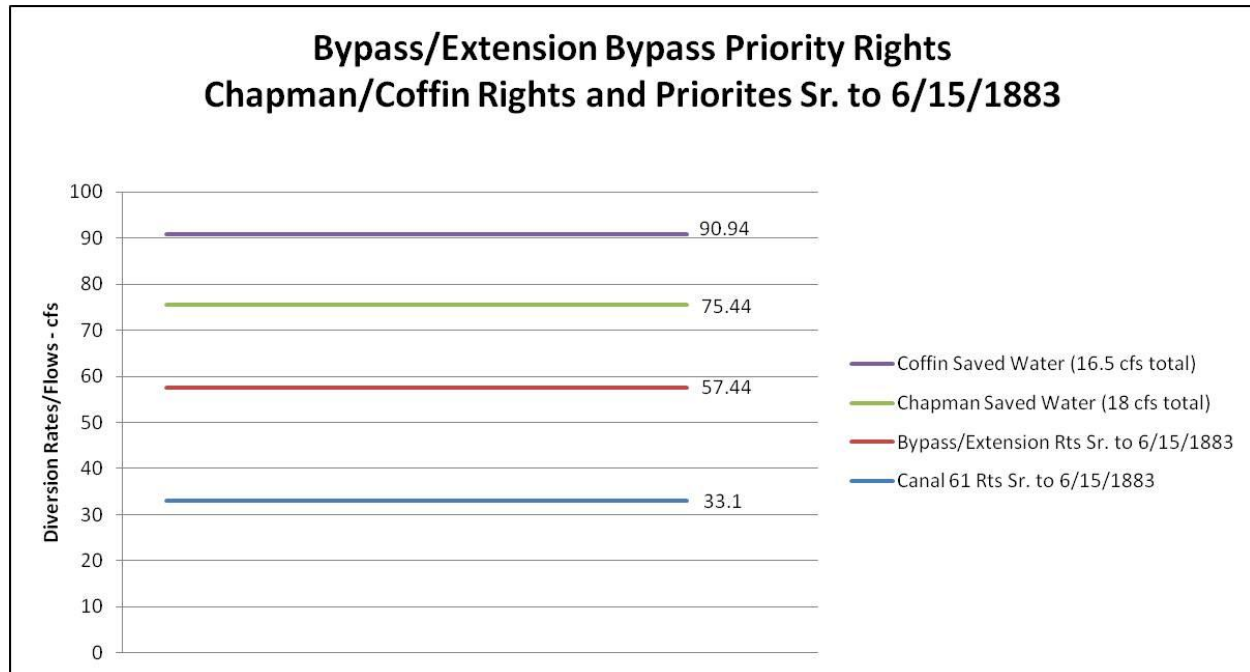
5) Quantities deliverable for Chapman rights are related to flow in the Bypass in excess of flows required for delivery of rights in priority down Bypass. For example: if there are 100 cfs of rights in priority down the Bypass and Extension Bypass and at least 118 cfs is being diverted into the Bypass then up to 18 cfs of Chapman Decree rights are deliverable.

6) When 6/15/1883 rights are cut, Chapman Decree 18 cfs rights are still good. Coffin Decree water may be available up to 16.5 cfs if delivery of rights senior to 6/15/1883 and 18 cfs Chapman are delivered first.

7) Chapman and Coffin rights are proportionately delivered by amounts called for by RIGHT HOLDERS (not share holders). Directions for delivery are the responsibility of the RIGHT HOLDERS in accordance with the water right point of diversion descriptions (i.e.; no new acres, no different diversion points).

Scale: 1:30,319

Attachment B. 1.
Graphical Representation for Water Delivery of Bypass System Senior Priority Rights
and Chapman/Coffin Saved Water Rights



Attachment C
Updated Outline of Watermaster Instructions
Delivery of “Saved Water” from Use of Baseline Bypass and Extension Bypass Canals
Chapman and Coffin Rights/SRBA Partial Decrees

1. Initiate Delivery of Chapman decree “Saved Water”

Delivery initiated at time when Big Wood River near Glendale Bridge is dammed and all flow of water from river can be conveyed to the Baseline Bypass canal.

2. Initiate Delivery of Coffin decree “Saved Water”

Delivery initiated when Big Wood River priority rights of 6/15/1883 are cut or not deliverable due to insufficient water supply in Big Wood River system. This priority cut occurs after the flow of the river is dammed at Glendale Bridge and the river is turned into the Baseline Bypass. If this cut is made and a portion of the remaining flow in the lower reach of the Baseline Bypass cannot be turned into the Extension Bypass due to insufficient carrying capacity of the Extension Bypass canal, then remaining flow shall be delivered past the heading of the Extension Bypass to the river for delivery of senior rights at Canal No. 61 or the Wood River Ranches diversion.

3. Curtail Delivery of Coffin decree “Saved Water”

The Coffin “saved water” should be curtailed when priority rights at Canal 61 senior to 6/15/1883 are cut or cannot be fully delivered using the Bypass Extension Canal. (Normally after lower reach of Baseline Bypass is dammed and all remaining Baseline Bypass water is turned into the heading of the Extension Bypass.) Canal 61 includes two rights with priority dates of 5/15/1883 (the most junior rights in the group of rights senior to 6/15/1883). The Coffin rights should be curtailed if there is any cut to the 5/15/1883 or senior rights at Canal 61. Given that cuts to priority rights from 6/15/1883 to 5/15/1883 may occur quickly, the period of time in which Coffin rights are deliverable may be very brief.

4. Reduction of Chapman decree “Saved Water”

Delivery of the Chapman “saved water” should be based on the prorata share of senior priority water (prior to 6/15/1883) deliverable in the Baseline Bypass and Extension Bypass system. (For example if 20 cfs out of the 57.44 cfs is delivered (35%) then 6.27 cfs of the 18 cfs of “saved water” could be delivered.) *Proportionate reduction of priority rights along the Baseline Bypass and Extension Bypass system should be done in accordance with priority dates (i.e., reduce most junior rights first).*

5. Curtail Delivery of Chapman decree “Saved Water”

Delivery of Chapman “saved water” should be curtailed when delivery of all priority rights through the Baseline Bypass canal is futile (See Item 6 below) or not called for during the irrigation season. *Note: This is not intended to include “Winter saved water” decreed to Big Wood Canal Company under right 37-895.*

6. Futile Call Determination: Baseline Bypass Saved Water Rights & Senior Priority Rights

The watermaster should follow the direction provided by the letter dated July 11, 2002 from Norm Young of IDWR to Lee Peterson, Water District 37 watermaster, when considering or making a futile call determination.

7. Delivery of “Saved Water” to Holders of Chapman and Coffin Decreed Rights

For the “saved water” rights held by the Upper Big Wood River Water Users Association (UBWRWUA), the UBWRWUA must instruct the watermaster as to the amount of available water that should be delivered to the authorized locations under their water rights. The watermaster will deliver the “saved water” only to the authorized points of diversion that are associated with these valid water right users based on demand or direction from the UBWRWUA. Chapman and Coffin rights owned by users other than UBWRWUA should be delivered based on ownership of those rights as reflected by IDWR water right records and the watermaster’s records.